

Title 16, Division 4. Board of Chiropractic Examiners.

NOTICE IS HEREBY GIVEN that the Board of Chiropractic Examiners (hereafter "Board") is proposing to add regulations described in the Informative Digest below. Any person interested may present statements or arguments relevant to the action proposed in writing. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received by the Board of Chiropractic Examiners at its office no later than 5:00 p.m. on February 14, 2011.

The board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the board. The request must be received in the board office no later than 15 days before the close of the written comment period.

The board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 1000-4(b), 1000-4(e) and 1000-10 of the Business and Professions Code (Chiropractic Initiative Act of California Stats. 1923 p. 1xxxviii) and Sections 104 and 475 of the Business and Professions Code and to implement, interpret or make specific Sections 1000-4(b), 1000-5, 1000-7, 1000-10 and 1000-12 (Chiropractic Initiative Act of California Stats. 1923 p. 1xxxviii) and Sections 104, 136, 141, 475, and 480 of the Business and Professions Code; the board is considering changes to Title 16, Division 4, of the California Code of Regulations as follows:

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

The Chiropractic Initiative Act Section 1000 – 4(b) authorizes the board to adopt regulations as they may deem proper and necessary for the performance of its work, the effective enforcement and administration of this act, the establishment of educational requirements for license renewal, and the protection of the public.

This proposal would make regulatory changes to enhance the board's enforcement and administrative processes by defining terms in regulation, establishing reporting and disclosure requirements, and amending regulations specific to its disciplinary guidelines and applicant requirements. These changes would increase the Board's enforcement authority and access to critical information for use in investigations to

improve efficiency in enforcement processes and procedures for enhanced consumer protection.

The Board is proposing to make the following changes:

1. Amend Section 303.

This proposal would amend Section 303 to include a requirement for all licensees to file a current and accurate e-mail address with the Board and immediately notify the Board of any changes of an e-mail address within 30 days of the change.

2. Amend Section 304.

This proposal would amend Section 304 to define any disciplinary action taken against a licensee by another licensing entity, authority of any state, agency of the federal government, United States Military, or a foreign government as unprofessional conduct.

3. Add Section 304.5.

This section directs the Board to conduct a search on the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank prior to granting or renewing a license.

4. Amend Section 308.

This proposal would amend Section 308 to define the use of a pocket license and establish display requirements for pocket and wall licenses.

5. Add Section 317.2.

This section would prohibit the inclusion of gag clauses in civil agreements arising from disputes related to the chiropractor's practice and define a violation of this section as unprofessional conduct.

6. Add Section 317.3.

This section would set forth licensee reporting requirements and define a failure to comply with these requirements as unprofessional conduct.

7. Add Section 317.4.

This section would require licensees who employ licensed chiropractors to notify the Board when a licensed chiropractor has been suspended or terminated, or resigned in lieu of suspension or termination. This section would also define the phrases "suspension or termination for cause", "resignation in lieu of suspension or termination for cause, and "gross negligence" and define the term "incompetence" as well as establish consequences of non-compliance.

8. Add Section 321.1.

This section would establish the Board's authority to require applicants suspected of impairment due to a mental or physical illness to be examined for competency and grant the Board authority to deny applicants based on the results of such examination. This section would direct the Board to pay the full cost of the examination. Lastly this section establishes consequences for non-compliance.

9. Add Section 390.7.

This section would authorize the Board to enter into a settlement with a licensee in lieu of an Accusation or Statement of Issues and set forth the rights of licensees who choose to enter into such a settlement.

10. Add Section 390.8.

This section would mandate the Board to revoke a license for any act of sexual contact as defined in subdivision (c) of Section 729 of the Business and Professions Code. This section would also prohibit a proposed decision from containing a stay of the revocation.

11. Add Section 390.9.

This section would require the Board to take specified administrative and disciplinary actions against individuals who are required to register as a sex offender. This section would also define exemptions to these requirements.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 through 17630 Requires Reimbursement: None

Business Impact:

The Board initially determined that the proposed regulation would not have a significant statewide adverse economic impact directly affecting businesses,

including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

Effect on Small Business:

The board has determined that this regulatory proposal will not impose a cost to small businesses.

The proposed regulations will primarily impact applicants for chiropractic licensure in California and licensees who have been disciplined by another entity or who have criminal records by setting forth disclosure requirements. There would be no additional costs for small businesses to comply with the disclosure requirements in the proposed regulations.

CONSIDERATION OF ALTERNATIVES

The board must determine that no reasonable alternative that is considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The board has prepared an initial statement of reasons for the proposed action and has all the information available upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, the initial statement of reasons, and all the information, upon which the proposal is based, may be obtained upon written request from:

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Sacramento, California 95833
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dixie.vanallen@CHIRO.ca.gov

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the web site, www.chiro.ca.gov.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Name: Dixie Van Allen, Program Analyst
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The backup contact person is:

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Web Site Address: Materials regarding this proposal can be found at www.chiro.ca.gov.